

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

ANDREW BANGERTER,

Plaintiff,

v.

Case No. 5:21-cv-31-Oc-39PRL

STATE OF FLORIDA,

Defendant.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Andrew Bangerter, an inmate of the Florida penal system, initiated this action by filing a pro se petition for writ of mandamus (Doc. 1). Bangerter asserts he was arrested in March 2020, for violating the terms of his probation, and the state court has delayed in conducting a hearing. As relief, Bangerter would like the “Court’s intervention to resolve an issue of unreasonable delay by the assumed jurisdiction of Judge Robert Hodes’ court room on said ruling for an immediate release . . . from custody.” See Doc. 1 at 4.

A federal court may issue a mandamus order “to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. This Court lacks jurisdiction to entertain Bangerter’s petition because the State of Florida and state judges are not officers or employees of the United States. See, e.g., Lamar v. 118th Judicial

Dist. Court of Tex., 440 F.2d 383, 384 (5th Cir. 1971) (“[F]ederal courts have no general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties.”).

Accordingly, it is

ORDERED:

1. Bangerter’s petition for writ of mandamus (Doc. 1) is **DENIED**.
2. This case is **DISMISSED without prejudice**.
3. The **Clerk** is directed to enter judgment, terminate any pending motions, and close the case.

DONE AND ORDERED at Jacksonville, Florida, this 20th day of January 2021.

A handwritten signature in cursive script, reading "Brian J. Davis", is written over a horizontal line.

BRIAN J. DAVIS
United States District Judge

Jax-6
c:
Andrew Bangerter